

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: August 16, 2006

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning

Staff Contact Person: Ty Symroski

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**AGENDA ITEM WORDING:**

An ordinance to amend Section 9.5-4, Definitions, of the Monroe County Code, adding a definition for adjacent lot, aggregate or aggregation, and amending the definition for contiguous, the ordinance further amends Section 9.5-256, Aggregation of Development, establishing conditions for the aggregation of lots and Section 9.5-349 Shoreline Setbacks, to modify the docking facilities explanation to be consistent with the proposed changes in Section 9.5-4.

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**[1<sup>st</sup> of 1 required Public Hearing]**

**ITEM BACKGROUND:** Reviewed by the Development Review Committee on April 25, 2006. Reviewed and recommended for approval by the Planning Commission on May 24, 2006.

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**PREVIOUS RELEVANT BOCC ACTION:**

Discussed at the July 19, 2006 BOCC meeting and continued to the August 16, 2006 Meeting with directions for staff to review the possibility of locating docking facilities on Tier I lots.

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**CONTRACT/AGREEMENT CHANGES:**

N/A

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**STAFF RECOMMENDATION:**

Approval.

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**TOTAL COST:** N/A

**BUDGETED:** Yes ☐ No ☐

**COST TO COUNTY:** N/A

**SOURCE OF FUNDS:** \_\_\_\_\_

**REVENUE PRODUCING:** Yes N/A No ☐ **AMOUNT PER MONTH** ☐ **Year** ☐

**APPROVED BY:** County Atty ☒ OMB/Purchasing ☐ Risk Management ☐

**DIVISION DIRECTOR APPROVAL:**

Ty Symroski 8/1/2-6  
Ty Symroski

**DOCUMENTATION:** Included ☒

Not Required ☐

**DISPOSITION:** \_\_\_\_\_

**AGENDA ITEM #** \_\_\_\_\_

**Version Proposed by Planning Department Staff**

ORDINANCE NO. \_\_\_\_ - 2006

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE DEFINITION OF ACCESSORY USES AND CONTIGUOUS AND ADDING A DEFINITION FOR ADJACENT LOT, AGGREGATE AND AGGREGATION; AMENDING § 9.5-256 AGGREGATION OF DEVELOPMENT, AND § 9.5-349 SHORELINE SETBACKS, TO BE CONSISTENT WITH THE NEW DEFINITION FOR ADJACENT LOT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Board of County Commissioners makes the following Findings of Fact:

1. The current land development regulations do not provide a mechanism to allow docks on adjacent lots.
2. A need has been recognized to define and allow aggregation of contiguous properties.
3. The current land development regulations do not provide definitions or procedures for aggregation that meet the needs of Monroe County residents.
4. Federal and State law grants power to Monroe County to regulate and restrict the use of land and buildings in order to promote the safety and general welfare of its citizens.
5. Monroe County has adopted land use goals, policies, and objectives in a comprehensive plan to guide policy on building and land use regulations, and to promote health, safety, and general welfare.
6. The provision of this ordinance is consistent with the Monroe County Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.
7. The Monroe County Planning Commission held a duly advertised public hearing on May 24, 2006 and made its recommendations to the board.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**

**PROPOSED TEXT CHANGES** are presented in ~~striketrough~~ to indicate deletions and underline to indicate additions.

## Section 1

### **Amend and Add to §9.5-4 Definitions as follows:**

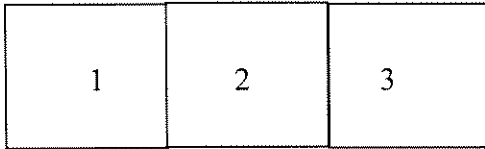
- (A-2) Accessory use or accessory structure means a use or structure that is subordinate to and serves a principal use or structure; and
- a) is subordinate in area, extent and purpose to the principal use or structure served; and
  - b) contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and
  - c) is located on the same lot or on contiguous lots under the same ownership and in the same land use district as the principal use or structure except in the case of docks located in residential land use districts which may be located on adjacent lots as defined in this section.
  - d) Accessory uses include the utilization of yards for home gardens provided that the produce of the garden is for noncommercial purpose; ~~however,~~
  - e) In no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located, and in no event shall an accessory use or structure including docks be established prior to the principal use to which it is accessory.
  - f) Accessory uses shall not include guest units or any other potentially habitable structure. Habitable structures are considered to be dwelling units as defined below in this section.

(A-3.1) Adjacent lot is a lot within 500 feet in a straight line from any point on the property line of another lot. US-1, roads with a paved width greater than 24 feet and waterways will be considered a break in adjacency. The only accessory use permitted in an adjacent lot is a dock.

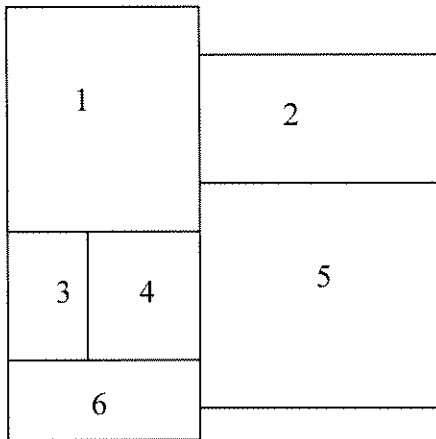
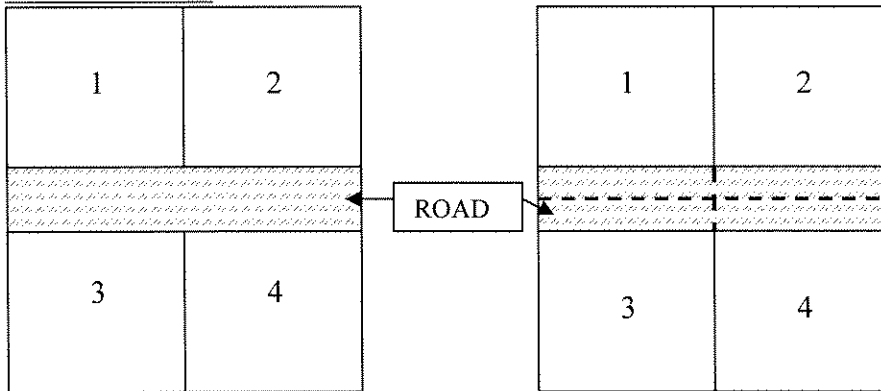
(A-5.1) Aggregate or Aggregation means to combine contiguous lots that share at least 50% or more of the border of the smaller lot or at least 50 linear feet (Example 1, Example 2, Example 3, Example 4). Density on the aggregated lots/parcels will be protected per §9.5-262 & 9.5-268.

(C-23) Contiguous means sharing of a common border at more than a single point of intersection. Contiguity is not interrupted by utility easements or roads less than 24 feet wide. Contiguity is interrupted by intervening natural or manmade waterways, US 1, roads with a paved width greater than 24 feet.

Example 1: Lot 1 and Lot 2 are contiguous; Lot 2 and Lot 3 are contiguous; Lot 1 and Lot 3 are not contiguous and cannot be aggregated without including Lot 2.



Example 2: All lots will be considered contiguous as the lot lines will be deemed to extend to center of the road as long as the road is not US 1 or has a paved width greater than 24 feet. Please note that lot lines match up. The four lots can be aggregated. Lot 1 and Lot 4 are not contiguous and can not be aggregated without including either Lot 2 or 3. Lot 2 and Lot 3 are not contiguous and can not be aggregated without including either Lot 1 and Lot 4.



Example 3: All lots could be considered contiguous if all lots are included.

Lot 1 is contiguous with Lot 2, Lot 3, Lot 4 and Lot 5. Lot 1 can be aggregated with Lot 2, Lot 3, and Lot 4. Lot 1 and Lot 5 can not be aggregated unless the lots meet for at least 50 ft. or Lot 2 and/or Lot 4 is included in the aggregation.

Lot 2 is contiguous and can be aggregated with Lot 1 and Lot 5.

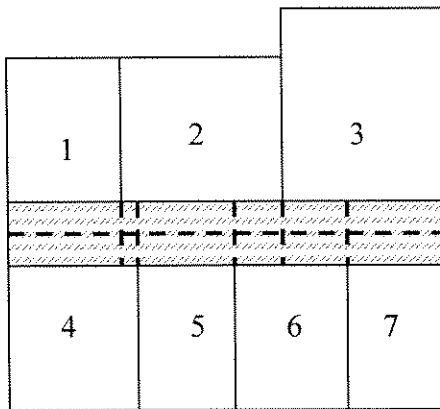
Lot 3 is contiguous and can be aggregated with Lot 1, Lot 4, and Lot 6

Lot 4 is contiguous and can be aggregated with Lot 1, Lot 3, Lot 5, and Lot 6.

Lot 5 is contiguous with Lot 1, Lot 2, Lot 4, and Lot 6. Lot 5 can be aggregated with Lot 2, Lot 4 and Lot 6. Lot 5 and Lot 1 can not be aggregated unless the lots meet for at least 50 ft. or Lot 2 and/or Lot 4 is included in the aggregation.

Lot 6 is contiguous and can be aggregated with Lot 3, Lot 4, and Lot 5.

Example 4: All lots would be considered contiguous if all lots are included. The paved width of the road represented is less than 24 feet.



Lot 1 is contiguous and can be aggregated with Lot 2 and Lot 4.

Lot 2 is contiguous with Lot 1, Lot 3, Lot 4, Lot 5 and Lot 6. Lot 2 can be aggregated with Lot 1, Lot 3 and Lot 5. Lot 2 can be aggregated with Lot 4 if the lots share at 50 ft. or the aggregation includes either Lot 1 or Lot 5. Lot 2 can only be aggregated with Lot 6 if the lots share at least 50 ft. or the aggregation includes either Lot 3 or Lot 5.

Lot 3 is contiguous and can be aggregated with Lot 2, Lot 6 and Lot 7.

Lot 4 is contiguous with Lot 1, Lot 2 and Lot 5. Lot 4 can be aggregated with Lot 1 and Lot 5. Lot 4 can only be aggregated with Lot 2 if the lots share at least 50 ft. or the aggregation includes either Lot 1 or Lot 5.

Lot 5 is contiguous and can be aggregated with Lot 2, Lot 4 and Lot 6.

Lot 6 is contiguous with Lot 2, Lot 3, Lot 5 and Lot 7. Lot 6 can be aggregated with Lot 3, Lot 5 and Lot 7. Lot 6 can only be aggregated with Lot 2 if the lots share at least 50 ft. or the aggregation includes either Lot 3 or Lot 5.

Lot 7 is contiguous and can be aggregated with Lot 3 and Lot 6.

## **Section 2.**

### **AMEND § 9.5-256. Aggregation of Development., as follows:**

Any development which has or is a part of a common plan or theme of development or use, including but not limited to an overall plan of development, common or shared amenities, utilities or facilities, shall be aggregated for the purpose of determining permitted or authorized development and compliance with each and every standard of this chapter and for the purpose of determining the appropriate form of development review.

Lots to be aggregated under Section 9.5-4 (A5.1), shall meet the following conditions:

- a) If the aggregated lots are separated by a road, the area of the road can not be used in computing density for housing, open space or floor area unless the road has been abandoned.
- b) Aggregated lots must share unity of title.
- c) Development will take place in the least environmentally sensitive area per §9.5-345(f) and on the less restrictive tier.
- d) In IS and URM subdivisions only one unit per lot is permitted.

### **Section 3**

#### **AMEND § 9.5-349. Shoreline setback as follows:**

- (m) *Docking Facilities:* Docking facilities shall be permitted, provided that:
- (4) Notwithstanding the provisions of section 9.5-4(A-2), docking facilities may be constructed on adjacent parcels as defined in § 9.5-4 (A-3.1), and under the following conditions:
- (a) the adjacent lots/parcels are under common ownership,  
(b) the principal structure is a lawfully established dwelling unit, and  
(c) the lot/parcel for the docking facility is not located in Tier I (one).

~~under the same ownership and within the same zoning district, provided that a legally established principal use and/or structure exists on one (1) parcel. In the event that ownership of the adjacent parcel containing such an accessory dock is severed from the parcel containing the principal use/structure, the dock must be removed and the shoreline restored.~~

### **Section 4. Severability.**

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

### **Section 5. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

### **Section 6. Effective Date.**

This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission approving ordinance pursuant to Chapter 380, Florida Statutes.

Adjacency and Aggregation Text Amendments

Section 7. Transmittal for Codification

The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

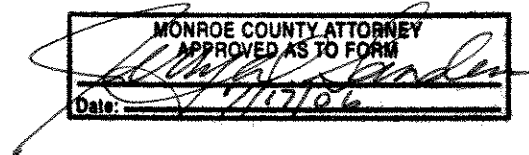
Mayor Charles "Sonny" McCoy  
Mayor Pro Tem Dixie Spehar  
Commissioner George Neugent  
Commissioner David Rice  
Commissioner Glenn Patton

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\_\_\_\_\_  
\_\_\_\_\_

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
Deputy Clerk





## **Version Proposed by Planning Commission**

**ORDINANCE NO. \_\_\_\_ - 2006**

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE DEFINITION OF ACCESSORY USES AND CONTIGUOUS AND ADDING A DEFINITION FOR ADJACENT LOT, AGGREGATE AND AGGREGATION; AMENDING § 9.5-256 AGGREGATION OF DEVELOPMENT, AND § 9.5-349 SHORELINE SETBACKS, TO BE CONSISTENT WITH THE NEW DEFINITION FOR ADJACENT LOT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Board of County Commissioners makes the following Findings of Fact:

1. The current land development regulations do not provide a mechanism to allow docks on adjacent lots.
2. A need has been recognized to define and allow aggregation of contiguous properties.
3. The current land development regulations do not provide definitions or procedures for aggregation that meet the needs of Monroe County residents.
4. Federal and State law grants power to Monroe County to regulate and restrict the use of land and buildings in order to promote the safety and general welfare of its citizens.
5. Monroe County has adopted land use goals, policies, and objectives in a comprehensive plan to guide policy on building and land use regulations, and to promote health, safety, and general welfare.
6. The provision of this ordinance is consistent with the Monroe County Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.
7. The Monroe County Planning Commission held a duly advertised public hearing on May 24, 2006 and recommended that the BOCC approve the text amendment.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THAT:**

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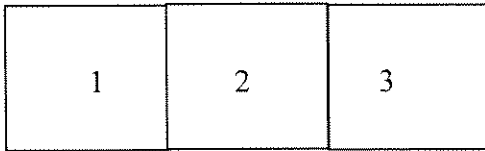
- (A-2) Accessory use or accessory structure means a use or structure that is subordinate to and serves a principal use or structure; and
- a) is subordinate in area, extent and purpose to the principal use or structure served; and
  - b) contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and
  - c) is located on the same lot or on contiguous lots under the same ownership and in the same land use district as the principal use or structure except in the case of docks located in residential land use districts which may be located on adjacent lots as defined in this section.
  - d) Accessory uses include the utilization of yards for home gardens provided that the produce of the garden is for noncommercial purpose; ~~however,~~
  - e) In no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located, and in no event shall an accessory use or structure including docks be established prior to the principal use to which it is accessory.
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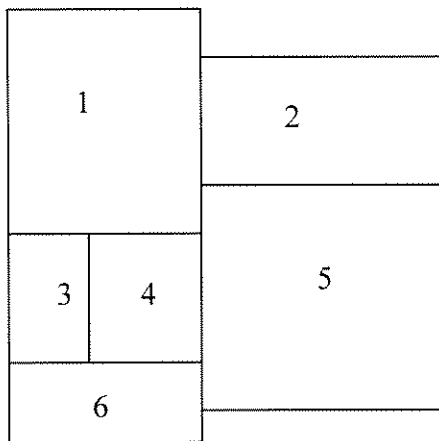
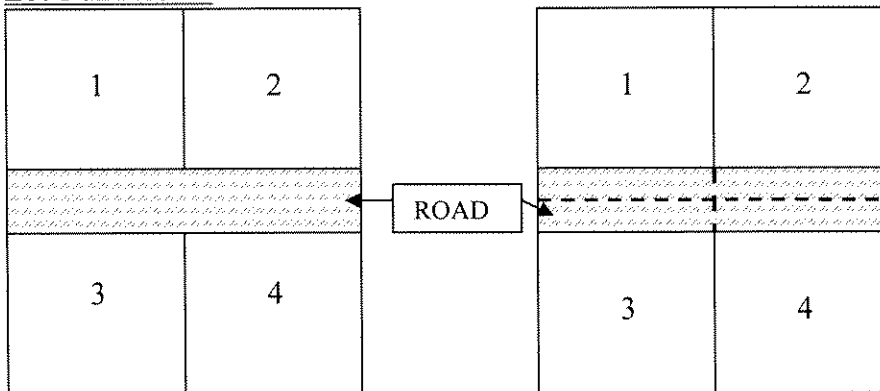
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(C-23) Contiguous means sharing of a common border at more than a single point of intersection. Contiguity is not interrupted by utility easements or roads less than 24 feet wide. Contiguity is interrupted by intervening natural or manmade waterways, US 1, roads with a paved width greater than 24 feet and easements other than utility or conservation easements.

Example 1: Lot 1 and Lot 2 are contiguous; Lot 2 and Lot 3 are contiguous; Lot 1 and Lot 3 are not contiguous and cannot be aggregated without including Lot 2.



Example 2: All lots will be considered contiguous as the lot lines will be deemed to extend to center of the road as long as the road is not US 1 or has a paved width greater than 24 feet. Please note that lot lines match up. The four lots can be aggregated. Lot 1 and Lot 4 are not contiguous and can not be aggregated without including either Lot 2 or 3. Lot 2 and Lot 3 are not contiguous and can not be aggregated without including either Lot 1 and Lot 4.



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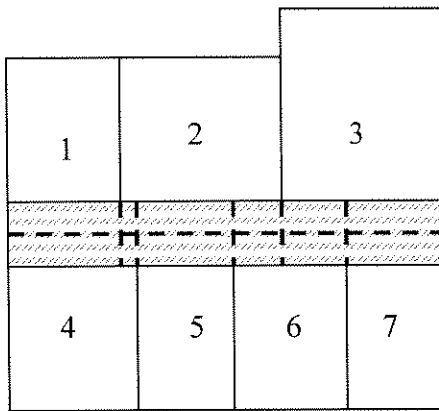
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## **Section 2.**

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Lots to be aggregated under Section 9.5-4 (A5.1), shall meet the following conditions:

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### **Section 3**

#### **AMEND § 9.5-349. Shoreline setback as follows:**

- (m) *Docking Facilities:* Docking facilities shall be permitted, provided that:
- (4) Notwithstanding the provisions of section 9.5-4(A-2), docking facilities may be constructed on adjacent parcels as defined in § 9.5-4 (A-3.1), and under the following conditions:
    - (a) the adjacent lots/parcels are under common ownership,
    - (b) the principal structure is a lawfully established dwelling unit, and
    - (c) the lot/parcel for the docking facility is not located in Tier I (one).

~~under the same ownership and within the same zoning district, provided that a legally established principal use and/or structure exists on one (1) parcel. In the event that ownership of the adjacent parcel containing such an accessory dock is severed from the parcel containing the principal use/structure, the dock must be removed and the shoreline restored.~~

### **Section 4. Severability.**

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

### **Section 5. Conflicting Provisions.**

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

### **Section 6. Effective Date.**

This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administrative Commission approving ordinance pursuant to Chapter 380, Florida Statutes.

Adjacency and Aggregation Text Amendments

**Section 7. Transmittal for Codification**

The provisions of this ordinance shall be included and incorporated into the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Mayor Charles "Sonny" McCoy  
Mayor Pro Tem Dixie Spehar  
Commissioner George Neugent  
Commissioner David Rice  
Commissioner Glenn Patton

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\_\_\_\_\_  
\_\_\_\_\_

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

\_\_\_\_\_  
Deputy Clerk